



**THE ATTORNEY GENERAL
OF TEXAS**

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July 20, 1971

Hon. Wilson E. Speir
Director, Texas Department
of Public Safety
Box 4087
Austin, Texas 78751

Opinion No. M-906

Re: The effective dates of
S.B. 316, S.B. 476, H.B.
542, and S.B. 194.

Dear Colonel Speir:

You have requested the opinion of this office as to the effective dates of Senate Bill 316, Senate Bill 476, House Bill 542, and Senate Bill 194 which are set out below in chronological order:

1. Senate Bill 316 amending Article 6687b, Section 3, Vernon's Civil Statutes, by adding a new subsection 4b, was passed by the Senate on April 22, 1971, and the House on May 6, 1971, by a record vote sufficient to make the bill immediately effective upon the approval of the Governor. The Governor approved this bill on May 13, 1971.
2. Senate Bill 476 amending Article 6687b, Section 3, Vernon's Civil Statutes, passed the Senate on April 15, 1971, and the House on May 19, 1971, by record vote sufficient to make the bill immediately effective upon the approval of the Governor. The Governor approved this bill on May 26, 1971.
3. House Bill 542 amending Article 6687b, Section 4, Vernon's Civil Statutes, passed the House on May 11, 1971, and the Senate on May 13, 1971 by a non-record vote and

was approved by the Governor on May 19, 1971. The bill would go into effect 90 days after the Legislature adjourns.

4. Senate Bill 194 amending Article 6687b, Sections 3 and 4, Vernon's Civil Statutes, (and others not involved herein), passed the Senate on May 11, 1971, and the House, with amendments, on May 30, 1971. The Senate concurred on the House amendments on May 31, 1971, by non-record vote. The Governor approved the bill on June 2, 1971, to go into effect 90 days after adjournment.

The controlling constitutional provision is Article III, Section 39, Texas Constitution, which reads as follows:

"No law passed by the Legislature, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless in case of an emergency, which emergency must be expressed in a preamble or in the body of the act, the Legislature shall, by a vote of two-thirds of all the members elected to each House, otherwise direct, said vote to be taken by yeas and nays, and entered upon the journals."

Senate Bill 316 which amended Article 6687b, Section 3, Vernon's Civil Statutes, by adding a new subsection 4b became effective immediately upon the Governor's approval on May 13, 1971. It remained in effect until May 26, 1971, when it was superseded by Senate Bill 476.

On May 26, 1971, Senate Bill 476 was approved by the Governor and became effective immediately. This Act amended Article 6687b, Section 3. In amending Section 3, this Act omitted subsection 4b. It is well settled that a repeal or revision may be effected by amendment and substitution. An amendatory act that recasts the language of an existing statute or section operates to repeal or supersede

any omitted provisions of the original. 53 Tex.Jur.2d, Statutes, Sec. 107. It is clear that Senate Bill 476 is intended to embrace all of the law as to "What persons are exempt from license" as set out in Section 3, and it is a well settled rule of statutory construction that where it is apparent that a statute is intended to embrace all of the law upon the subject with which it deals, it supersedes all former laws relating to the same subject. 53 Tex.Jur.2d, Statutes, Sec. 109; State v. Dancer, 391 S.W.2d 504 (Tex.Civ.App. 1965, error ref. n.r.e.). In Gordon v. Lake, Secretary of State, 163 Tex. 392, 356 S.W.2d 138 (Tex.Sup. 1962), the Supreme Court said:

"A statute may be repealed expressly or by implication. Where a later enactment is intended to embrace all the law upon the subject with which it deals, it repeals all former laws relating to the same subject." (See Atty. Gen.Op. 0-1539, dated November 7, 1939).

It is our opinion that Senate Bill 476 in so far as it amended Article 6687b, Section 3, became effective on May 26, 1971, upon approval by the Governor and superseded Section 3 of Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as well as subsection 4b of Section 3 as contained in Senate Bill 316 which was previously discussed. Subsection 4b was omitted from Senate Bill 476 and is therefore to be considered impliedly as repealed by the latter act. Since Senate Bill 476 clearly was intended to prescribe the only rules that should govern the subject matter set out in Article 6687b, Section 3, it supersedes Section 3 both as that Section existed immediately before and after the amendment to that Section made by Senate Bill 316.

House Bill 542 was approved by the Governor on May 19, 1971. This Act purports to amend Article 6687b, Section 4, and becomes effective 90 days after the adjournment of the Legislature. For reasons discussed later in this opinion, this bill will never become effective and need not be discussed.

Senate Bill 194 amending Article 6687b, Sections 3 and 4, (and other sections which need not be discussed), was approved by the Governor on June 2, 1971 to become effective 90 days after adjournment of the Legislature to wit: August 30, 1971. Until that date, Section 3 as contained in Senate

Bill 476 will be in effect. On August 30, 1971, Senate Bill 194 which is intended to embrace all of the law on Article 6687b, Sections 3 and 4, becomes effective. Since Senate Bill 194 is the latest expression of the intention of the Legislature and is clearly intended to prescribe the only rules that should govern the subject matter in Article 6687b, Sections 3 and 4, it repeals the prior statutes. Therefore, on August 30, 1971, Senate Bill 476 and House Bill 542 are superseded and annulled by the implied repeal effected by Senate Bill 194.

Senate Bill 194 being the latest expression of the Legislature will prevail over Senate Bill 476 which was passed prior to it, irrespective of the fact that Senate Bill 476 took effect prior to Senate Bill 194 taking effect. See Attorney General Opinion No. V-990, dated January 26, 1950, and Ex Parte De La Jesus De La O, 227 S.W.2d 212, (Tex.Crim. 1950).

S U M M A R Y

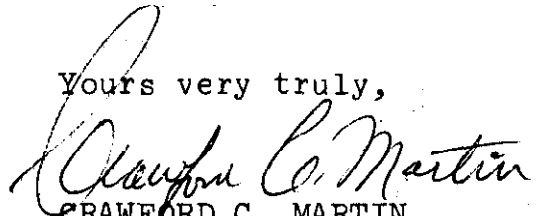
S.B. 316 became effective May 13, 1971, and remained in effect until May 26, 1971, when it was superseded by S.B. 476.

S.B. 476 which amends Art. 6687b, Sec. 3, V.C.S., became effective May 26, 1971, and will remain in effect until August 30, 1971 when it will be superseded by S.B. 194 which amends Art. 6687b, Secs. 3 and 4, V.C.S., (and others not relevant).

S.B. 194 is clearly intended to embrace all of the law on the subject matter contained in Secs. 3 and 4 of Art. 6687b, V.C.S., and being the latest expression of the will of the Legislature repeals all former laws on the subject, to wit: S.B. 476 and H.B. 542. H.B. 542 will be superseded by S.B. 194 on August 30, 1971, the date the latter becomes effective.

Honorable Wilson E. Speir, page 5. (M-906)

Yours very truly,


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